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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

DAVID TAYLOR,

Petitioner,

v.

THE SUPERIOR COURT OF LOS  
ANGELES COUNTY,

Respondent;

H & C DISPOSAL COMPANY,

Real Party in Interest.

No. B179463

(Super. Ct. No. YC039900)

ORIGINAL PROCEEDING, Petition for Writ of Mandate. Lois Smaltz, Judge.  
Writ granted.

Law Offices of Fred J. Fleming, Todd Greenwald for Petitioner.

No appearance on behalf of Real Party in Interest.

Plaintiff, David Taylor, has filed a mandate petition after the respondent court failed to stay the action as required by Code of Civil Procedure section 916, subdivision (a) while he appealed from an order setting aside a default judgment. We issued a notice pursuant to *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 180 indicating our intention to stay proceedings as required by Code of Civil Procedure section 916, subdivision (a). (See *Prudential-Bache Securities, Inc. v. Superior Court* (1988) 201 Cal.App.3d 924, 925.) An order setting aside a default judgment is appealable. (Code Civ. Proc., § 904.1, subd. (a)(2); *County of Stanislaus v. Johnson* (1996) 43 Cal.App.4th 832, 834.) Therefore, subject to the right to conduct discovery pursuant to Code of Civil Procedure section 2036 and to secure a California Rules of Court, rule 56.4(a) cost award, all proceedings in the trial court are stayed. (Code Civ. Proc., § 916, subd. (a); *Elsea v. Saberi* (1992) 4 Cal.App.4th 625, 629; *Prudential-Bache Securities, Inc. v. Superior Court*, *supra*, 201 Cal.App.3d at p. 925.)

The mandate petition is granted. Let a peremptory writ of mandate issue staying all proceedings subject to the parties' right to conduct discovery pursuant to Code of Civil Procedure section 2036 and any California Rules of Court, rule 56.4(a) cost litigation. Plaintiff, David Taylor, is to recover his costs in connection with these extraordinary writ proceedings from defendant, H & C Disposal Company.

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TURNER, P.J.

We concur:

ARMSTRONG, J.

MOSK, J.